|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **TENDER DOSSIER**  *According to Article 27 of Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented with the law No. 04/L-237, law No. 05/L-068 and law No. 05/L-092*  **“SUPPLIES”**  ***OPEN PROCEDURE***   |  | | --- | |  |   Date of preparation of the Tender Dossier :   |  |  |  |  |  | | --- | --- | --- | --- | --- | | **Procurement No[[1]](#footnote-1)** |  |  |  |  |   **Title:**  **THIS TENDER DOSSIER IS COMPOSED OF THREE PARTS:**  **Part A:**  **Tendering procedures containing instructions how to prepare tenders;**  **Part B:**  **Draft Contract containing the contractual conditions which must be**  **accepted by the tenderer awarded the contract; and**  **Part C: The Tender Form, i.e. the documents which must be submitted by**  **tenderers.** |

**This Tender Dossier has been prepared in Albanian, Serbian**  **language.**

**In the event there is a discrepancy among the language versions, the** *[insert language]* **language version shall prevail over others.**

**SUBJECT: INVITATION TO TENDER for**

Thank you for your interest regarding the participation on the above-mentioned procurement activity.

Further to your request please find enclosed the documents, which constitute the Tender Dossier.

You are expected to examine carefully all parts and sections of this tender dossier and its annexes and to comply with all requirements, specifications and conditions contained therein.

We, as Contracting Authority, will not accept any reservation.

Failure to submit a tender to the contracting authority within the deadline specified in this Tender Dossier and/or is not in compliance to all requirements set in this tender dossier shall be rejected and shall be considered as “*irresponsive tender”.*

No costs incurred by you in preparing and submitting the tender will be reimbursed and no liability shall be incurred by the contracting authority in case the procedure is cancelled.

The present tender procedure is regulated by the Public Procurement Law (Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented with the law No. 04/L-237, law No. 05/L-068 and law No. 05/L-092) and procurement rules issued on its basis.

The PPL and the Procurement Rules may be downloaded from Public Procurement Regulatory Commission’s (PPRC’s) website: [**www.krpp.rks-gov.net**](http://www.krpp.rks-gov.net)**.**

Tenders shall be submitted at the address specified in the part A “Tendering Procedures”, before.

In submitting a tender, the tenderer accepts in full and without reservation the special and general conditions governing this proposed contract as the sole basis of this tendering procedure.

We look forward to receiving your tender,

If you decide not to submit a tender, we would be grateful if you could inform us in writing, stating the reasons for your decision.

Yours sincerely,

First and last name:

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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# *PART A: TENDERING PROCEDURES*

# Section I. Information to Tenderers

|  |  |
| --- | --- |
|  | General |
| 1. Scope of Tender | * 1. The Contracting Authority as **indicated in the Tender Data Sheet (TDS),** issues this Tender Dossier for the supply of Goods and Related Services incidental thereto as specified in Part C, the Price Schedule.   2. The contract title and identification number of this procurement activity are **indicated in the TDS.**   3. Information on the publication of the Contract Notice is **indicated in the TDS.**   4. Tenders shall be submitted in the address of the contracting authority **indicated in the TDS.**   5. Throughout this Tender Dossier:  1. the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, telex) with proof of receipt; 2. if the context so requires, “singular” also means “plural” and vice versa; 3. “day” means calendar day; 4. you are referred as the “economic operator” or the “tenderer”; and 5. the issuer of this tender dossier is referred to as the “contracting authority”. |
| 2. Object of the contract | * 1. The Classification of Common Procurement Vocabulary and the object of the contract **are indicated in the TDS**   2. *If the contract is divided into lots,* each lot may lead to the award of a separate contract. The quantities indicated for different lots will be indivisible. The tenderer must offer the whole of the quantity or quantities indicated for each lot. If the tenderer is awarded contracts for more than one lot, a single contract may be concluded covering all those lots.   3. The number of lots is **indicated in the TDS**.   4. Estimated contract value is **indicated in the TDS**. |
| 3. Mandatory technical specifications | 3.1 The supplies must fully comply with the technical specifications set out in this Tender dossier, see Annex 1, and conform in all respects with the drawings, quantities, models, samples, measurements and other instructions. This shall be demonstrated by the submission of the documentary evidence indicated in the TDS.  3.2 Any specification not in compliance with the technical specifications will disqualify the tender. |
| 4. Variants | 4.1 **Unless otherwise indicated in the** **TDS,** tenderers are not authorised to submit a tender proposing a supply that complies with a variant of the technical specifications. |
| 5. Delivery Requirement and conditions | 5.1 Place for delivery of products **as indicated in the TDS**.  5.2 Delivery condition **as indicated in the TDS**  5.3 Time limits for start and/or completion of the contract as **indicated in the TDS.** |
|  | REQUIREMENTS which should be met by ECONOMIC OPERATORS |
|  | Economic operators have to comply with all the following requirements. Any failure in any requirement will eliminate their tenders from the competition. |
|  | **Eligibility requirements** |
| 6. Eligibility of the Economic Operators | **6.1 An economic operator shall not be eligible to participate in a procurement activity or in the performance of any public contract if such economic operator, or any employee, executive, manager or director thereof:**  a. participated in the preparation of the concerned contract notice or tender dossier, or any part thereof, being used by the concerned contracting authority;  b. received assistance in preparation of its tender or requests to participate from a person or undertaking who or that participated in the preparation of the concerned contract notice or tender dossier, or any part thereof; or  c. being in any case in a conflict of interest, as described in Article 4, paragraph 1.75  **6.2 An economic operator shall not be eligible to participate in a procurement activity or in the performance of any public contract if such economic operator, or any executive, manager or director thereof, has, in the past ten (10) years:**  a**. been determined by a court of competent jurisdiction** to have committed a criminal or civil offence involving corrupt practices, money laundering, bribery, kickbacks or activities described, or similar to those described, in Article 130.1 of the PPL under the laws or regulations applicable in Kosovo or any country, or under international treaties or conventions;  b. **been declared ineligible**, where the contracting authority finds this to constitute grave professional misconduct, verified by a competent court ;  c. **been determined by a court of competent jurisdiction** to have committed a serious offence by participating in the activities of a criminal organization, defined as a structured association established over a period of time and operating in a concerted manner to achieve financial gain through activities that are criminal or otherwise illegal where they take place;  d. **been determined by a court of competent jurisdiction** to have committed an act of fraud or an act equivalent to fraud;  e. **been determined** **to have engaged in unprofessional conduct by a court of competent jurisdiction**, administrative agency or organization responsible for enforcing standards of professional conduct; or  f. **been determined by a court of competent jurisdiction** to have made serious misrepresentations to any public authority in Kosovo or elsewhere.  **6.3 An economic operator shall not be eligible to participate in a procurement activity or in the performance of any public contract if such economic operator:**  a. has, in the past two (2) years, been adjudged to be bankrupt or insolvent by a court of competent jurisdiction, or is currently the subject of proceedings: (i) for a declaration of bankruptcy, (ii) for an order for compulsory winding up or administration by the court or (iiii) of any other similar proceedings under the law of Kosovo or any other jurisdiction;  b. is being wound up or administered, or its affairs are being wound up or administered, by a court of competent jurisdiction;  c. currently has in place an agreement or arrangement with its creditors providing for extended or reduced terms of payment if such terms were agreed to by such creditors because the economic operator had previously been unable to satisfy its obligations as they came due;  d. is in any situation analogous to sub-paragraphs a, b, or c of this paragraph arising from a similar procedure under the laws of its place of establishment or of a place where it conducts business;  e. is currently the subject of a judicial or administrative order suspending or reducing payments by or to such economic operator and resulting in the total or partial loss of the economic operator’s right to administer and/or dispose of its property;  f. is currently the subject of legal or administrative proceedings that may result in a judicial or administrative order suspending or reducing payments by or to such economic operator if such proceedings may also result in the economic operator being adjudged bankrupt or insolvent;  g. has, in the past three (3) years, been adjudged by a court of competent jurisdiction to have seriously breached a contract with any public entity, public authority or public undertaking in Kosovo or elsewhere;  h. is currently delinquent in the payment of any social security or tax contributions in Kosovo or the economic operator’s country of establishment, except where such debt is deemed to be insignificant in Kosovo;  i. is more than ninety (90) days’ delinquent in the payment of any wages owed to employees or in the payment of any amount owed to a public service operator in Kosovo;  j. has not yet complied with an order issued by a court of Kosovo;  k. has made false statements in relation to the procedure for the award of a public contract, if these are related to the lack of grounds for disqualification, or the fulfilment of the selection criteria; or  l. has not been convicted by a final decision adopted in compliance with article 99.2 of the PPL.  ***Time limits set in this section, are related to the period that immediately precede publication date of the contract notice.***  6.4 In order to prove that the economic operator is eligible to participate in the procurement procedure the economic operator should submit the documentary evidence **indicated in the TDS.** |
|  | **Minimum qualification requirements** |
| 7. Professional suitability requirements | 7.1 The economic operator shall meet the professional suitability requirements **indicated in the TDS.**  7.2 In order to prove that the economic operator is suitable to participate in the procurement procedure the economic operator should submit the documentary evidence **indicated in the TDS.** |
| 8. Economic and financial standing requirements | 8.1 The economic operator shall meet the minimum economical and financial requirements **indicated in the TDS.**  8.2 In order to prove that the economic operator meets the minimum economical and financial requirements the economic operator should submit the documentary evidence indicated in the TDS. |
| 9. Technical and/or professional capability requirements | 9.1 The economic operator shall meet the minimum technical and/or professional capability requirements **indicated in the TDS.**  9.2 In order to prove that the economic operator meets the minimum technical and/or professional capability requirements the economic operator should submit the documentary evidence indicated in the TDS.  9.3 The contracting authority , at its own expenses, may carry out an inspection with the economic operators company for the purpose of verification. |
| **10.Confidential business information** | 10.1 If the economic operator desires that any provided information relating to the economical /financial standing and technical/professional capability is treated as confidential business information a written request must be submitted by using the form set out in this tender dossier, see Annex 3. |
| 11. Establishing a Group of economic operators | 11.1 If a tender is submitted by a group of economic operators, the group is required to **nominate one of the members** of the group as the contact economic operator, and shall submit with its tender documents **indicated in the TDS.**  11.2 Such a group shall not be required to assume a specific legal form in order to submit the tender but the Contracting Authority reserves the right, if such requirement is necessary for the satisfactory performance of the contract, to request from the selected group to do so if the contract is awarded to such a group as a pre-condition to the signing of the contract.  11.3 Economic operators are not allowed to tender at the same time individually and as a member of a group or as a member of different groups. In such cases both the economic operator and the groups concerned shall be deemed as ineligible. |
| 12. Subcontracting | 12.1 The Economic Operators must indicate in their tender any part of the contract that the Economic Operator intends to subcontract to third parties and shall submit with its tender documents **indicated in the TDS.** |
| 13. Tender Security | * 1. If **indicated in the TDS** the tenderer shall furnish as part of its tender a Tender Security.   2. The Tender Security shall be in the amount andfor a validity period as **indicated in the TDS** and may be posted in one of the forms indicated below:  1. check certified by a first-class bank; 2. letter of credit, opened and confirmed by a first-class bank; 3. unconditional bank guarantee, issued by a first-class bank; or 4. insurance policy issued by a licensed Insurance Company    1. If a Tender Security is required, any tender not accompanied by a substantially responsive Tender Security shall be rejected as non-responsive tender.    2. Form of the tender security is specified in Annex 4 of this tender dossier.    3. The contracting authority shall return the tender security posted within five (5) days, after occurring any of the following: 5. expiration date of the tender validity; 6. contract award and entry into force; 7. cancellation or completion of the procurement activity prior to the award or entry into force; or 8. Upon withdrawal of a tender before the deadline for the tender submission unless it is stated in the TD that no such withdrawal is permitted.    1. The Tender Security may be forfeited if: 9. The Contracting Authority determines that the Economic operator has submitted false or misleading information; 10. The Economic operator withdraws its tender after the deadline for submissions of tenders, but before the expiry of the tender validity period; and 11. The Economic Operator is awarded the contract but refuses or fails: 12. to provide the performance security; 13. to comply with other conditions preceding to the signing of the contract; or 14. to execute the contract. |
| 14. Performance Security | * 1. **If indicated in the TDS**, prior to the signing of the Contract, the successful tenderer, shall furnish the Contracting Authority with a Performance Security.   2. The Performance security shall be in amount and for a validity period **indicated in the TDS.**   3. Form of the performance security is specified in Part B, Section IV.   4. The performance security may be posted in one of the forms indicated for the Tender Security.   5. Failure of the successful Economic Operator to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security.   6. The Performance Security shall be forfeited in the event of:  1. breach of the signed contract, which causes material damage to the contracting authority and/or requires the contracting authority to incur material expense in obtaining the completion of such contract; and 2. The signed contract is breached and many workers are left unpaid, subcontractors and /or material suppliers;   14.7 If none of the events mentioned above have occurred requiring the forfeiture of the performance security, a contracting authority shall return the funds or document constituting such performance security in accordance with the terms of the concerned contract. |
|  | Contents of Tender Dossier |
| 15. Sections of the Tender Dossier | * 1. The Tender Dossier consists of Parts A, B, and C, which include all the Sections indicated below, and should be read in conjunction with any Addendum issued in accordance with the Information to Tenderers Section 17.   **PART A Tendering Procedures**   * Section I. Information to Tenderers * Section II. Tendering Data Sheet (TDS) * Annexes   **PART B Contract**   * Section I. Draft Contract Form * Section II. General Conditions of Contract (GCC) * Section III. Special Conditions of Contract (SCC) * Section IV. Performance Security Form * Section V. Financial Identification   **PART C Tender Form**   * Section I. Tender Form * Section II. Price Schedule |
| 16. Clarification of the Tender Dossier | * 1. The tenderers are allowed to make a written request to the contracting authority for additional or clarifying information which they believe is needed to prepare or submit a responsive tender. Such a request may be made by use of the request form, see Annex 5, and submitted to the contracting authority by electronic means, letter or fax. The Contracting Authority will respond in writing to any request for clarification, provided that such request is received no later than the time limit **indicated in the TDS.** The Contracting Authority shall forward copies of its response to all those who have acquired the Tender Dossier including a description of the inquiry but without identifying its source. Should the Contracting Authority deem it necessary to amend the Tender Dossier as a result of a clarification, it shall do so following the procedure under Information to Tenders Section 17. |
| 17. Amendment of the Tender Dossier | * 1. At any time prior to the deadline for submission of tenders, the Contracting Authority may amend the Tender Dossier by issuing an addendum.   2. Any addendum issued shall be part of the Tender Dossier and shall be communicated in writing to all economic operators who have obtained the Tender Dossier.   3. To give prospective tenderers reasonable time in which to take an addendum into account in preparing their tenders, the Contracting Authority shall extend the deadline for the submission of tenders in accordance with Article 53 of the PPL. |
|  | Preparation of TENDERS |
| 18. Language of Tender | 18.1 Economic operators may prepare and submit their tender and related documents in Albanian, Serbian or English language. |
| 19. Documents Comprising the Tender | * 1. The Tender shall comprise the following:  1. Tender Form and the applicable Price Schedules by using the forms furnished in Part C of this Tender Dossier; 2. Tender Security, in accordance with Information to Tenderers Section 13, *if applicable*; 3. Documentary evidence in accordance with Information to Tenderers Section 6 evidencing the Tenderer’s eligibility; 4. Documentary evidence in accordance with Information to Tenderers Section 7, evidencing the Tenderer’s professional suitability, *if applicable;* 5. Documentary evidence in accordance with Information to Tenderers Section 8, evidencing the Tenderer’s economical and financial standing, *if applicable*; 6. Documentary evidence in accordance with Information to Tenderers Section 9, evidencing the Tenderer’s technical and professional capability, *if applicable*; 7. Documentary evidence in accordance with Information to Tenderers Section 11 and 12, *if applicable*; and 8. Any other document **required in the TDS.** |
| 20. Currency and price Calculation | 20.1 All prices specified in tenders shall be stated in Euro **(€).** The price offered is allowed to be marked with a maximum of two (2) decimal numbers after the decimal point. Any number listed after the second number (2) shall not be taken into account in the calculation of the value of the bid.  20.2 The tender prices for the offered goods are fixed during the Tenderer’s performance of the Contract and not subject to revision**,** unless otherwise **indicated in the** **TDS.**  20.3If tenders are being invited for individual contracts (lots) prices quoted shall correspond to 100 % of the items specified for each lot and to 100% of the quantities specified for each item of a lot. |
| 21. Documents Establishing the Conformity of the Goods and Related Services | * 1. To establish the conformity of the Goods and Related Services to the Tender Dossier, the tenderer shall furnish as part of its Tender the documentary evidence that the Goods conform to the technical specifications and standards specified.   2. The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification.   3. The Tenderer, **if indicated in the TDS,** shall furnish the Contracting Authority with a list of spare parts and/or consumable goods. |
| 22. Tender Validity Period | * 1. Tenders shall remain valid for the period as **indicated in the** **TDS.** Validity period of the tender shall begin on the date of the deadline for submission of tenders. A tender valid for a shorter period shall be rejected by the Contracting Authority as non responsive.   2. In exceptional circumstances, prior to the expiration of the tender validity period, the Contracting Authority may request tenderers to extend the period of validity of their tenders. The request and the responses shall be made in writing. If a Tender Security is requested it shall also be extended for a corresponding period. Failure to respond to the request made by the contracting authority shall lead to the rejection of the tender without forfeiting its Tender Security. |
| 23. Sealing and Marking of Tenders | * 1. The Tenderer shall prepare one original of the documents comprising the tender as described in Information to Tenderes Section 19 and clearly mark it “**Original.”** In addition, the Tenderer shall submit copies of the tender, in the number **indicated in the TDS** and clearly mark them **“Copy”.**   2. The tenderer shall seal the original tender and each copy ***in separate envelopes*** and shall on the front of each one of such envelopes: * Mark clearly as ***“Original”*** or ***“Copy”;*** * Indicate the Procurement number as stated in the tender dossier; and * Indicate the name and address of the tenderer.   23.3 The envelopes shall then be sealed in an outer envelope marked with:   * The address of the place for submission of tenders; * The Procurement reference number; * Warning that the envelope should not be opened before the date and time of tender opening; and * The name and address of the tenderer. |
|  | Submission and Opening of Tenders |
| 24. Deadline for Submission of tenders | * 1. Tenders must be received by the Contracting Authority at the address and no later than the date and time **indicated** **in the** **TDS.** |
| 25. Late tenders | * 1. The Contracting authority shall not consider any tender that arrives after the deadline for submission of tenders. Any tender received by the Contracting Authority after the deadline for submission of tenders shall be declared late, rejected, and returned unopened to the Tenderer. |
| 26. Withdrawal, Substitution, and Modification of Tenders | * 1. Except if otherwise **indicated in the TDS,** a Tenderer may withdraw, substitute, or modify its tender after it has been submitted by sending a written notice to the contracting authority, duly signed by an authorized representative. The corresponding substitution or modification of the tender must accompany the respective written notice. All notices must be:  1. submitted in accordance with Information to Tenderers Section 23 and in addition, the respective envelopes shall be clearly marked “Withdrawal,” “Substitution,” or “Modification”; and 2. received by the Contracting authority prior to the deadline prescribed for submission of tenders.   26.2 Tenders requested to be withdrawn shall be returned unopened to the Tenderers.  26.3 No tendermay be withdrawn in the interval between the deadlines for submission of tenders and the expiry of the tender validity period. Withdrawal of a tender during this interval will result in forfeiture of the tender security. |
| 27. Tender Opening | * 1. The Contracting Authority shall conduct the tender opening in public at the address, date and time **indicated in the** **TDS.**   2. Every tenderer have the right to have a representative present to observe the opening of tenders.   3. If withdrawals, substitutions or modifications were allowed, first the envelopes marked “Withdrawal” shall be opened and read out and the envelope with the corresponding tender shall not be opened, but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the “power of attorney” confirming the signature as a person duly authorized to sign on behalf of the tenderer, the corresponding tender will be opened. Next, envelopes marked “Substitution” shall be opened and read out and exchanged with the corresponding tender being substituted, and the substituted tender shall not be opened, but returned to the Tenderer. Envelopes marked “Modification” shall be opened and read out with the corresponding Tender.   4. No tender withdrawal, substitution or modification shall be permitted unless the corresponding withdrawal, substitution or modification notice contains a valid authorization to request the withdrawal, substitution or modification and is read out at Tender opening. Only envelopes that are opened and read out at Tender opening shall be considered further.   5. All other envelopes shall be opened one at a time, reading out: the name and address of the tenderer,the total tender Price specified in the Tender submission form, and whenever possible, unit prices. When for not instantaneous reasons unit prices cannot be read, such prices in any case shall be visible to all representatives of tenderers in the public opening, e.g. posting them or using any other appropriate method that guarantees transparency. In any case, every page of any financial tender shall be signed during the public opening by a representative of another tenderer. In the event of a procurement activity where the contract award criterion is economically most advantageous tender everything that has to do with figures should be read at loud, such as time of delivery, warranty period etc. All this shall be recorded in the minutes of the tender opening meeting, which shall be signed by the Procurement Officer and by all participants in the process of tender opening. Copies of such minutes shall immediately be distributed to all tenderers. |
|  | Evaluation and Comparison of Tenders |
| 28. Examination of tenders | 28.1 **Timely** received tenders will be examined, evaluated and compared according to the requirements set forth in this tender dossier.  28.2 A tender is considered to be **responsive** when it:   1. complies in administrative terms with the formal requirements of the tender dossier; 2. complies in technical terms with the description, requirements and specifications established in the tender dossier; 3. is submitted by an eligible economic operator meeting the selection criteria established in the tender dossier. |
| 29. Clarification of Tenders | * 1. To assist in the examination, evaluation and comparison of the tenders, the Contracting Authority may, at its discretion, ask any Tenderer for a clarification of its tender. The Contracting Authority may invite economic operators to supplement or clarify the certificates and documents submitted in accordance with Articles 65-71 of this Law. However, securing missing information or provision of information will apply only to documents whose existence is fixed before the deadline for submission of tenders expires, and may be verified objectively. Any clarification submitted by a tenderer in respect to its tender and that is not in response to a request by the Contracting authority shall not be considered.      * 1. The request for clarification and the response must be in writing only, but no change in price may be sought, offered or permitted. |
| 30. Responsiveness of the tenders | 29.3 A contracting authority shall correct an error in a tender that is of a purely arithmetical nature if such an error is discovered during the examination of tenders, however, this correction cannot be higher than two percent (2%) of the total amount of the bid. In such a case, offered price unit by the economic operator in its financial tender shall be deemed to be a prevailing price over any other contradictory price. When unit prices are not required, elements of the single price of the total price offered by the economic operator in its financial tender shall be deemed to be prevailing price over the total price. A contracting authority shall promptly provide all tenderers a written notice of any such correction.  29.4 In cases of a discrepancy between the unit price and the total amount, or between words and figures the former will prevail.  30.1 If a tender is not responsive it shall be rejected and may not subsequently be made to comply by correcting it or withdrawing the departure or restriction.  30.2 Responsive tenders shall be evaluated and compared according to the contract award criteria established in the Tender Dossier. The contract shall be awarded to the highest ranked tender. |
|  | Award of Contract |
| 31. Award Criteria | 31.1 The contract will be awarded as per the contract award criteria **indicated in in the TDS.** |
| 32. Complains | 32.1 Pursuant to Article 108/A of the Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented with the law No. 04/L-237, law No. 05/L-068 and No. 05/L-092,a complaint may be submitted, free of charge, by an interested party at any stage of any procurement activity and with respect to any act or omission of the concerned contracting authority that is alleged to be in violation of the present law, or acts issued in its implementation.  32.2 The Standard form of the complaint may be downloaded from the PPRC’s or PRB’s websites: [**www.krpp.rks-gov.net**](http://www.krpp.rks-gov.net) or [**www.oshp.rks-gov.net**](http://www.oshp.rks-gov.net)**.**  32.3 The complaint shall be submitted in original to the Contracting Authority at the address specified in Section I.1) of this Tender Dossier.   * Where the complaint relates to the contract notice or the tender documents within five (5) days prior to the deadline for submission of bids; * Where the complaint relates to the decision to award a contract, within five (5) days after the date of notification of the contract award notice is sent to the complainant. * Where the complaint relates to the decision to terminate the procurement procedure, within five (5) days from the date the procurement activity was formally terminated through a termination notice.   32.4 Against any decision taken by the contracting authority in accordance with Article 108A circumstances any interested party may lodge a complaint with the PRB. The complaint should be submitted only after a preliminary procedure for resolution of the dispute was conducted.    Appeal to the PRB must be submitted within ten (10) days after the decision issued by the contracting authority in the preliminary procedure of dispute resolution in accordance with Article 108A of this Law.  32.5 All complainants are required to pay a complaints fee of the amount of [*insert amount in Euro*] together with the filing of a complaint. Payment shall be made in cash or cash equivalent into the account established by the PRB.  32.6 Refer to the PPL and the Procurement Rules for further complaints procedures. |

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# Section II. Tender Data Sheet (TDS)

The following specific data for the goods to be procured shall complement, supplement, or amend the provisions in the Information to Tenderers. Whenever there is a conflict, the provisions herein shall prevail over those in Information to Tenderers

*[Instructions for completing the Tender Data Sheet are provided, as needed, in the notes in italics mentioned for the relevant* Information to Tenderers *Sections. Delete none relevant ones]*

|  |  |  |
| --- | --- | --- |
| Instructions to Tenderers | | Amendment/Modification of relevant Section in the Information to Tenderers |
| Section  description | Sec. No. |  |
| Scope of Tender | 1.1 | The Contracting Authority (CA) is:  **Name of CA**: *[insert**name of the CA]*  **Address of CA**: *[insert**address of the CA]*  **Town:** *[insert CA town]*  **Postal code**: *[insert CA city postal code]*  **Electronic address:** *(if applicable)*: *[insert* [*www.*](http://www.)*]*  **Contact person**: *[insert name of contact person]*  **E-mail:** *[insert email of contact person]*  **Telephone:** [*insert CA telephone number]*  **Fax:** *[insert CA fax number]* |
|  | 1.2 | The contract title and identification number of the procurement activity is: *[insert name and identification number]* |
|  | 1.3 | Date of submission of Contract Notice to the PPRC: *[insert date]*  Full version of the contract notice as sent to the PPRC may be downloaded from PPRC’s website: [**www.krpp.rks-gov.net**](http://www.krpp.rks-gov.net). |
|  | 1.4 | Tenders shall be submitted at the address mentioned under 1.1 |
| Object of the contract | 2.1 | Classification of Common Procurement Vocabulary (CPV): [*insert CPV number]*  The object of the contract is the *[delivery], [installation], [maintenance], and [after-sales service]* by the economic operator of the following goods:  *[insert General description of supplies and Indication of quantity]* |
| Division into Lots of the Contract | 2.3 | *[If the object of the contract is not divided into lots insert*]  This contract is not divided into lots. Tenders must be submitted for the entirety of the quantities indicated in the tender dossier  *[If the object of the contract is divided into lots insert]*  The object of the contract is composed of *[insert number]* lots. Tenderers may submit a tender for *[insert one/ all lots].* Each part of the lot is indicated in the technical specifications, see Annex 1.  The maximum number of Lots that may be awarded to one Economic Operator is: *[insert number]*  [*determine objective and non-discriminatory criteria or rules for awarding different lots, where the application for the selection of the award criteria would result in awarding tenderer more lots than the maximum number]* |
| Contract value | 2.4 | ***[****insert estimated contract value****]*** |
| Mandatory technical specifications | 3.1 | The economic operator shall submit documentary evidence of the offered object of contract including:   1. Statement on technical specifications of the offered object of contract to correspond to those mentioned in Annex 1 of tender dossier. |
| Variants | 4.1 | *Variants [insert “shall not be” or “shall be”]* *authorised*.  *[If variants are authorised, insert:]*  Tenderers are authorised to submit a tender proposing a supply that complies with a variant of the technical specifications. Tenderers shall submit technical specifications of the offered variant.  The minimum specifications to be respected by a variant are indicated in the technical specifications set out in this Tender dossier, see Annex 1.] |
| Delivery Requirement and conditions | 5.1 | Place of delivery is: [*insert place of delivery*] |
|  | 5.2 | Delivery conditions: [*insert delivery conditions, Incoterm*[[2]](#footnote-2)  *applicable*] |
|  | 5.3 | Time limits for start and/or completion of the contract: *[insert time limit*] |
| Eligibility of the Economic Operators | 6.4 | 1. A written declaration under Oath signed by the tenderer by using the form in Annex 2.   Proof regarding eligibility requirements shall be requested to be submitted by the tenderer whom the contracting authority intends to award the contract. These documents must be submitted by the tenderer prior to the contract award. Failure to submit such documents, its tender will be rejected.  Documentary evidence which shall be required to be submitted as proof of eligibility requirement is the following:   1. For situations referred to point 6.2 [a, b, c, d, e and f] and point 6.3 [a, b and d], a proof issued by a competent judicial or administrative authority of the Tenderer’s country of establishment. 2. For situation referred to in point 6.3 [h (social security contribution), i and k] a certificate issued by the competent authority or public operator attesting that such situation does not exist. 3. For situation referred to in point 6.3 [h (taxes)] a proof issued by Tax administration of place of establishment of economic operator, that the mentioned economic operator is not delinquent in the payment of taxes at least until the last quarter of the year *[prior to the publication date of Contract Notice].*   As regards all other provisions set forth in Section 6 as well as in case where the issue of documents and certificates referred to above is not obtainable for objective reasons, or where these documents do not cover all cases for which the evidence has been produced, a declaration under oath made by the tenderer may be accepted as sufficient evidence. |
| Professional suitability requirements | 7.1 | *[insert the professional suitability requirements*] |
|  | 7.2 | [*insert the documentary evidence for professional suitability*] |
| Economic and financial standing requirements | 8.1 | *[If applicable, insert the minimum economical and financial standing requirements]* |
|  | 8.2 | *[insert the documentary evidence for economical and financial* |
| Technical and/or professional capability requirements | 9.1 | *[If applicable, insert the minimum technical and/or professional capability requirements]* |
|  | 9.2 | *[insert the documentary evidence for technical and/or professional capability]* |
| Establishing a Group of economic operators | 11.1 | 1. **a clear statement** that all members of the group are jointly and severally liable for the contents of the group’s tender and, in the event the group is awarded the contract, the performance of the contract; 2. **Submit a signed statement from each of the members**, confirming their participation in the group and that they are not participating singularly and/or in any other group taking part in the same procurement procedure; 3. **A statement signed** by all members of the group authorising the lead partner to act on behalf of the group; and 4. All member of such group **shall be eligible** and shall provide evidence on their eligibility, as mentioned under Section 6.4 of this TDS. |
| Subcontracting | 12.1 | 1. **a statement** declaring the selected subcontractors made for the relevant procurement activity; and 2. all subcontractors **shall be eligible** and shall provide evidence on their eligibility, as mentioned under Section 6.4 of this TDS. |
| Tender Security | 13.1 | *[insert one of the following options]*  *[If tender security is not required]*  No Bid Security is required.  *[If tender security is required]*  The tenderer has to post a tender security. |
|  | 13.2 | The amount of the Tender Security shall be [*insert the amount in words and figures*] for a validity period of [*insert duration in days or months]* |
| Performance Security | 14.1 | *[insert one of the following options]*  *[If performance security is not required]*  No Performance Security is required.  [*If performance security is required*]  In case of awarding the contract to you, you will have to post, before the signing of the contract, a performance security. |
|  | 14.2 | The amount of the Performance Security is [*insert the amount or the percentage in words and figures*] for a duration period of [*insert duration in days or months]* |
| Clarification of the Tender Dossier | 16.1 | *[insert date]* |
| Documents Comprising the Tender | 19.1(h) | *[If applicable, insert any other requirement]* |
| Currency and price Calculation | 20.2 | The prices quoted by the Tenderer *[insert “shall “or “shall not”]* be adjustable.  *[If prices shall be adjustable*]  [*Insert the methodology for price adjustment*] |
| Documents Establishing the Conformity of the Goods and Related Services | 21.3 | *[insert one of the following options]*  The tenderer is not required to submit with its tender a list of spare parts  [*If a list of spare parts is required*]  The tenderer shall submit with its tender a list of spare parts for the supplies described in the technical specifications, Annex 1. |
| Tender Validity Period | 22.1 | Tender validity period shall be [*insert number]* days*.* |
| Sealing and Marking of Tenders | 23.1 | In addition to the original of the Tender the number of copies is [*insert number of copies]*. |
| Deadline for Submission of tenders | 24.1 | The deadline for submission is [*insert date and time and place of submission*] |
| Withdrawal, Substitution, and Modification of Tenders | 26.1 | *[If withdrawals, substitutions, or modifications of tenders are not allowed]*  The tenderers are not allowed to withdraw, substitute or modify its tender after its submission. |
| Tender Opening | 27.1 | The tender opening is [*insert date and time and place of opening*] |
| Award Criteria | 31.1 | [The **lowest** priced **responsive** tender]; or  [the **most economically advantageous** **responsive** tenderdetermined by the weighted criteria as stated in Annex 6] |
| Complains | 32.3 | [*insert CAs address*] |

# Annex 1. MANDATORY TECHNICAL SPECIFICATIONS

1. Describe in a non-discriminating manner, the mandatory characteristics of the object of the contract, such as: Quality, quality assurance, performance, terminology, design requirements, symbols, dimensions, testing and test methods, safety, packaging, marking, labelling.

Technical specifications shall be established in a manner that is both consistent with the purpose of the procurement and directed at providing the greatest possible access to all potentially interested economic operators.

A contracting authority is specifically prohibited from establishing a technical specification that favours or disfavours one or more economic operators.

[2. If variants are allowed the CA shall indicate the minimum specifications to be respected by a variant and any specific requirements for the presentation of a variant.]

[3. If the object of the contract is divided into lots, indicate each lot in separate tables as below]

|  |  |  |  |
| --- | --- | --- | --- |
| Item No | Description | | Quantity |
| 1 |  | |  |
| 2 |  | |  |
| 3 |  | |  |
| 4 |  | |  |
| 5 |  | |  |
| 6 |  | |  |
|  | [add and remove as much lines as items you need in the lot] | |  |
| [Indication about different starting /delivery date , *if applicable*:] | | | |
| [Starting*]* | | <insert date> |  |
| [Delivery*]* | | < insert date > |  |
|  | | | |

[Detailed technical information can be written in the language commonly used internationally for such technique]

[4. The tenderer taking into account its professional experience should compile the list of spare parts taking into account places of use, should indicate the unit prices of spare parts and the total price.]

# Annex 2. DECLARATION UNDER OATH

I, the undersigned, representing: [*the submitting economic operator*] declare under oath that I am eligible in accordance with Article 65, of Law on Public Procurement in Kosovo, Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented with the law No. 04/L-237, law No. 05/L-068 and law No. 05/L-092.

I acknowledge to have read the eligibility requirement in Article 65 of the PPL, respectively section 6 of the Information to Tenderers, and fulfil eligibility requirements to participate in this tender process.

I acknowledge the possibility of criminal and civil sanctions, penalties and damages if I intentionally or negligently submit any document, declaration or statement containing materially false or misleading information.

|  |  |
| --- | --- |
| **Economic Operator Identification (EO)** | |
| **Name of EO:** |  |
| **Full Address:** |  |
| **Represented by:** | |
| **Name** |  |
| **Position** |  |
| **Signature** |  |
| **Date** |  |
| **Stamp** |  |

# Annex 3. REQUEST FOR CONFIDENTIALITY

To: [name and address of contracting authority]

(Hereinafter “the Contracting Authority”)

WHEREAS *[insert name of economic operator]* (hereinafter “the Economic Operator”), meeting the requirements of the tender dossier under the above mentioned Procurement No., Section 8 and 9 of the Information to tenderers, has furnished business confidential information as follows:

|  |
| --- |
| *Identification of the confidential information and reference to sections of furnished documents:* |

AND WHEREAS the said information hereby is declared (i) not to be in the public domain, and (ii) to be protected from intentional or negligent disclosure by the Economic Operator;

AND WHEREAS public access to the said information would result in material harm to the legitimate commercial interests of the Economic Operator from the following reasons:

|  |
| --- |
| *Statement of the nature of such material harm and the reasons why it would occur:* |

THEREFORE, I, the undersigned, representing the Economic Operator hereby express the desire that the Contracting Authority classify and maintain the said information as business confidential information.

|  |  |
| --- | --- |
| **Economic Operator Identification** | |
| **Company Name** |  |
| **Full Address** |  |
| **Represented by:** | |
| **Name** |  |
| **Position** |  |
| **Signature** |  |
| **Date** |  |
| **Stamp** |  |

# Annex 4. TENDER SECURITY

**To: [name of contracting authority]**

(Hereinafter “the Contracting Authority”)

**On behalf of: [name and address of economic operator]**

(Hereinafter “tenderer”)

**Title of the procurement activity:**

**Procurement number:**

**On First Demand Guarantee**

WHEREAS the Tenderer has undertaken to post a tender security referring to Tender Dossier, with the abovementioned procurement number dispatched by the Contracting Authority;

AND WHEREAS the Tenderer wants to post a guarantee for the sum specified in the Tender Dossier;

AND WHEREAS we have agreed to give the Tenderer such a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Tenderer, up to a total of <amount of the guarantee in words and figures>, and we undertake to pay you, upon your first written demand declaring the Tenderer to be in default because of:

1. the Contracting Authority has determined, on the basis of objectively verifiable evidence, that the Tenderer has provided materially false or misleading information to the Contracting Authority;
2. the Tenderer has withdrawn its tender after the deadline for the submission of tenders but prior to the expiration of the tender validity period specified in the Tender Dossier;
3. the Tenderer was awarded the concerned contract on the basis of its tender and the Tenderer then refuses or fails:

* to post any required performance security specified in the Tender Dossier;
* to comply with any other condition precedent to the signing of the concerned contract as specified in the Tender Dossier ; or
* to conclude the contract that conforms to the terms and conditions specified in the Tender Dossier.

Any sum within the limits of:< amount of guarantee> as aforesaid, without you’re needing to prove or to show grounds or reasons for your demand or to the sum specified herein.

This guarantee is valid until <date and time>

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Signature and seal of the Guarantors

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of financial institution

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

# Annex 5. REQUEST FOR ADDITIONAL INFORMATION

To: <name and address of contracting authority>

WHEREAS [name of economic operator] (hereinafter “the Economic Operator”), having received the tender dossier under the above mentioned Procurement Number., believes that additional or clarifying information is needed as follows:

|  |
| --- |
| *Identification of needed additional or clarifying information, including reference to section(s) of the tender dossier:* |

THEREFORE, I, the undersigned, representing the Economic Operator, hereby request the receipt of the identified information.

|  |  |
| --- | --- |
| **Economic Operator Identification (EO)** | |
| **Name of EO:** |  |
| **Full Address:** |  |
| **Full Address:** | |
| **Name:** |  |
| **Position:** |  |
| **Signature:** |  |
| **Date:** |  |
| **Stamp:** |  |

# Annex 6. CONTRACT AWARD CRITERIA [[3]](#footnote-3)

The following elements to determine criteria are non-exhaustive and non-mandatory. They shall be selected in accordance with the needs of the contracting authority and the subject of the contract

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Categories** | | **Criteria Description** | **Weight**[[4]](#footnote-4) | | **Evaluation method** |
| **1** | **Price** | Score <100x %> for the tender with lowest price. The tender score is calculated proportionally. |  | **%** | [[5]](#footnote-5) |
| **2** | **[Operating, maintenance, other life-time costs]** | Score <100x %> for the tender with best operating cost. The tender score is calculated proportionally (in cost) |  | **%** | [[6]](#footnote-6) |
| **3** | **[Functional, technical, environmental, aesthetic or similar characteristics]** | [Specify][[7]](#footnote-7) [Consider one (or more) objective measurable characteristic(s) and give score <100x %> for the tender with best characteristic(s). The tender score is calculated proportionally (in marks)] |  | **%** | [[8]](#footnote-8) |
| **4** | **[After sale services, technical assistance]** | [Specify][[9]](#footnote-9) [Consider one (or more measurable characteristic(s) and give score <100x %> for the tender with best technical assistance(s). The tender score is calculated proportionally (in marks)] |  | **%** | [[10]](#footnote-10) |
| **5** | **[Quality characteristics]** | [Specify][[11]](#footnote-11) [Consider one (or more) objective measurable characteristic(s) and give score <100x %> for the tender with best characteristic(s). The tender score is calculated proportionally (in marks)] |  | **%** | [[12]](#footnote-12) |
|  |  |  | **100 %** | |  |

# PART B: *Draft CONTRACT*[[13]](#footnote-13)& SPECIAL CONDITIONS & RELATED ANNEXES

# CONTRACT SECTION I: DRAFT CONTRACT FORM

[*Insert name of the Contracting Authority],* (hereinafter called "the Contracting Authority"), of the one part; and

[*Insert name of Supplier],* (hereinafter called “the Supplier”), of the other part, have agreed to conclude a public contract for the Supply of:

[*Insert Title*] with Identification number: [*insert Procurement Number*]

**Article 1 Subject**

1.1 The subject of the contract shall be the [*manufacture], [delivery], [installation], [commissioning], [maintenance], [after-sales service]* by the Supplier the following supplies:

[*insert general description of the supplies, including quantities],* in <*insert number*> lot(*s*)

*[lot no 1, general description with an indication of quantities]*

*[lot no 2, general description with an indication of quantities], [lot no …]*

**Article 2 Delivery terms**

2.1 The time limit for the delivery shall be [*insert number*] days from the time of the issue of the of purchase order by the Contracting authority.

2.2 The place of the delivery of the supplies shall be [*insert place of delivery*].

2.3 The Incoterm[[14]](#footnote-14) applicable shall be [insert Incoterm].

**Article 3 Origin**

3.1 A certificate of origin for the supplies must be provided by the Supplier at the latest when he/she requests provisional acceptance of the supplies. Failure to comply with this condition may result in the termination of the contract.

3.2 The origin of the goods shall be determined according to the Community Customs Code or the international agreements to which the country concerned is a signatory.

**Article 4 Price**

4.1 The total price of the supplies shall be: [*insert price of supplies in figures]* €; [*insert price of supplies in words]* Euro.

4.2 The price referred to in Article 4.1 above shall be the sole remuneration owed by the Contracting Authority to the Supplier under this contract.

4.3 The price shall be firm and shall not be subject to revision.

*[If some items are subject to revision]*

[Prices of the items that are subject to the price adjustments are subject to the following adjustments: [*insert index or other source of regulating prices*]

4.4 Payments shall be made in accordance with the General and/or Special Conditions of the Contract.

**Article 5 Order of precedence of contract documents**

5.1 The contract is made up of the following documents:

1. This Contract Agreement;
2. Special Conditions of Contract;
3. General Conditions of Contract;
4. The Supplier’s Tender including Technical Specifications;
5. The financial offer;
6. *[insert any other provisions of the tender dossier*].

5.2 The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they should be read in the order in which they appear above.

**Article 6 Communications**

6.1 Any written communication relating to this Contract between the Contracting Authority, on the one hand, and the Supplier on the other must state the Contract title and identification number and must be done in writing. Communications shall be sent by post, cable, telex, fax transmission, mail or delivered by hand.

6.2 If the sender of a communication requires acknowledgement of receipt, this shall be indicated in the communication. Whenever there is a deadline for the receipt of a written communication, the sender should ask for an acknowledgement of receipt of his communication. In any event, the sender shall take all necessary measures to ensure receipt of his communication.

6.3 Wherever the contract provides for the giving or issue of any notice, consent, approval, certificate or decision, unless otherwise specified such notice, consent, approval, certificate or decision shall be in writing and the words "notify", "certify", "approve" or "decide" shall be construed accordingly. Any such consent, approval, certificate or decision shall not unreasonably be withheld or delayed.

6.4 This contract is done in [[English] [Albanian] [Serbian][[15]](#footnote-15)] in three originals, two originals being for the Contracting Authority and one original being for the Supplier.

|  |  |  |  |
| --- | --- | --- | --- |
| **For the Contracting Authority** | |  | |
| **Name:** |  | |
| **Position:** | Responsible Procurement Officer | |
| **Signature:** |  | |
| **Date:** |  | |
| **Stamp:** |  | |

***[In case of large value contracts]***

|  |  |  |  |
| --- | --- | --- | --- |
| ***Name:*** |  | **Name:** |  |
| ***Position:*** | *Chief Administrative Officer* | **Position:** | *[Minister or other public authority]* |
| ***Signature:*** |  | **Signature:** |  |
| ***Date:*** |  | **Date:** |  |
| ***Stamp:*** |  | **Stamp:** |  |

|  |  |  |
| --- | --- | --- |
| **For the Supplier** | |  |
| **Name:** |  |
| **Position:** |  |
| **Signature:** |  |
| **Date:** |  |
| **Stamp:** |  |

# CONTRACT SECTION II GENERAL CONDITION

#### Article 1 Definitions

1.1 “**Contract"** means the agreement entered into between the Contracting Authority and the Supplier, as recorded in the Contract Form signed by the Parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

1.2 “**Products”** is determined as material goods that have economic value, including but without the restriction on the goods, articles, first materials, liquid, gas and concrete objects.

1.3 “**Contracting Authority**” means the organization purchasing the Goods, as named in the Tender Data Sheet.

1.4 **"The Supplier**" means a natural or legal person that is party to this contract and according to the dispositions of this contract supplies the goods that are the object of this contract.

1.5 **“Party (is)”** means the parties that sign the contract.

1.6 **“Incoterms”** means international trade termsthatcompose interpretation rules of trade terms that determine the manner, costs and risks related to the transfer of the products by the supplier to the contracting authority.

1.7 **“Supply”** means submission of the products with quality, amount and type specified in the contract, and also placed and packed in the manner determined in the contract.

1.8 **“Contract Price”** means the price payable to the Supplier as specified in the Contract Form, subject to such additions and adjustments thereto or deductions there from, as may be made pursuant to the Contract.

1.9 **“After sale services”** means supporting services**,** as: installation, maintenance, reparation of the supplies, security of the spare parts that produces or distributes the supplier and/or similar obligations in relation with the supply of products.

1.10 **“GCC”** means the General Conditions of Contract.

1.11 **“SCC”** means the Special Conditions of Contract.

**Article 2 Law applicable and language**

2.1 The SCC shall specify the law governing all matters not covered by the contract.

2.2 The contract and all written communications between the parties will be drafted in the language specified in the SCC.

**Article 3 Assignment**

3.1 An assignment shall be valid only, if it is a written agreement by which the Supplier transfers his contract or part thereof to a third party.

3.2 The Supplier may not, without the prior written consent of the Contracting Authority, assign the contract or any part thereof, or any benefit or interest there under, except in the following cases:

a) a charge, in favour of the Supplier's bankers, of any amount due or to become due under the contract; or

b) the assignment to the Supplier's insurers of the Supplier's right to obtain relief against any other person liable in cases where the insurers have discharged the Supplier's loss or liability.

3.3 For the purpose of Article 3.2, the approval of an assignment by the Contracting Authority shall not relieve the Supplier of his obligations for the part of the contract already performed or the part not assigned.

3.4 Assignees must satisfy the eligibility criteria applicable for the award of the contract except in cases where assignments are done to a bank or an insurance company or other financing institution.

**Article 4 Subcontracting**

4.1 A subcontract shall be valid only if it is a written agreement by which the Supplier entrusts performance of a part of his contract to a third party.

4.2 The elements of the contract to be subcontracted and the identity of the subcontractors shall be notified to the Contracting authority upon the tender submission. In case of change of subcontractors during the implementation of the contract, the Contractor shall notify in writing to the Contracting Authority. The contracting authority shall notify the Contractor of its decision within 30 days of receiving the notification, stating its reasons if authorization is withheld. The Contractor shall not subcontract without the written authorization of the Contracting Authority. All the proposed subcontractors must meet eligibility requirements.

4.3 The Contracting Authority recognises no contractual link between itself and the subcontractors; however it may vouch, where deemed necessary, for direct payments to subcontractors.

4.4 The Supplier shall be responsible for the acts, defaults and negligence of his subcontractors and their agents or employees, as if they were the acts, defaults or negligence of the Supplier, his agents or employees. The approval by the Contracting Authority of the subcontracting of any part of the contract or of the subcontractors shall not relieve the Supplier of any of his obligations under the contract

4.5 If the Supplier has undertaken any continuing obligation for a period exceeding the warranty period under the contract towards the Supplier, in respect of the supplies provided by the subcontractors, the Supplier must, at any time after the expiration of the warranty period, transfer immediately to the Contracting Authority, at the Contracting Authority's request and cost, the benefit of such obligation for the unexpired duration thereof.

#### Article 5 Supply of documents

5.1 If necessary, within 30 days of the signing of the contract, the Contracting Authority shall, where necessary, provide the Supplier, free of charge, with a copy of the drawings prepared for the performance of the contract and a copy of the specifications and other contract documents. The Supplier may purchase additional copies of these drawings, specifications and other documents, in so far as they are available. Upon the issue of the warranty certificate, or upon final acceptance, the Supplier shall return to the Contracting Authority all drawings, specifications and other contract documents.

5.2 Unless it is necessary for the purposes of the contract, the drawings, specifications and other documents provided by the Contracting Authority shall not be used or communicated to a third party by the Supplier without the prior consent of the Contracting Authority.

5.3 The Contracting Authority shall have authority to issue to the Supplier administrative orders incorporating such supplementary documents and instructions as are necessary for the proper execution of the contract and the remedying of any defects therein.

#### Article 6 Assistance with local regulations

6.1 The Supplier may request the assistance of the Contracting Authority in obtaining copies of laws, regulations and information on local customs, orders or bye-laws of the Republic of Kosovo which may affect the Supplier in the performance of his obligations under the contract. The Contracting Authority may provide the assistance requested to the Supplier at the Suppliers’ cost.

6.2 If necessary, the Supplier shall duly notify the Contracting Authority of details of the supplies so that the Contracting Authority can obtain the requisite permits or import licences.

6.3 The Contracting Authority will undertake to obtain the requisite permits or import licences within a reasonable period, taking account of the performance dates for the contract.

#### Article 7 General Obligations of the Supplier

7.1 The Supplier shall perform the contract with due care and diligence including, where specified, the design, manufacture, delivery of the supplies and carrying out of any other work including the remedying of any defects in the supplies.

7.2 The Supplier shall comply with administrative orders given by the Contracting Authority. Where the Supplier considers that the requirement of an administrative order goes beyond the scope of the contract, he shall, on pain of breach of contract, notify the Contracting Authority thereof, giving his reasons, within 30 days of receipt of the order. Execution of the administrative order shall not be suspended because of this notice.

7.3 The Supplier shall respect and abide by all laws and regulations in force the Republic of Kosovo and shall ensure that his personnel, their dependants, and his local employees also respect and abide by all such laws and regulations.

7.4 The Supplier shall treat all documents and information received in connection with the contract as private and confidential. He shall not, save in so far as may be necessary for the purposes of the contract's execution, publish or disclose any particulars of the contract without the prior consent in writing of the Contracting Authority.

7.5 If the Supplier is a group, the composition of the group shall not be altered without the prior consent in writing of the Contracting Authority.

**Article 8** **Origin**

8.1 The Supplier shall present an official certificate of origin on provisional acceptance. Failure to comply with this obligation shall lead, after formal notice, to termination of the contract.

#### Article 9 Performance guarantee

9.1 The Supplier shall, not later than the day of signing the contract, furnish the Contracting Authority with a guarantee for the full and proper performance of the contract. The amount of the guarantee is specified in the SCC. The performance guarantee shall be held against payment to the Contracting Authority for any loss resulting from the Supplier's failure to perform his contractual obligations fully and properly.

9.2 The performance guarantee of the contract shall be in the format given in Section IV of this contract.

9.3 Except for such part as may be specified in the SCC in respect of after-sales service, the performance guarantee shall be released within 30 days of the issue of the provisional acceptance certificate.

**Article 10 Insurance**

10.1The Goods supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery in the manner specified in the SCC.

10.2 Notwithstanding the Supplier's insurance obligations under Article 10.1, the Supplier shall bear sole liability for, and indemnify the Contracting Authority against, any claims by third parties for damage to property or personal injuries arising from the execution of the contract by the Supplier, his subcontractors and their employees.

#### Article 11 Performance programme

11.1If the SCC so require, the Supplier shall submit to the Contracting Authority for approval a programme of performance of the contract which shall contain at least the following:

i) the order in which the Supplier proposes to perform the contract including design, manufacture, delivery to place of receipt, installation, testing and commissioning; and

ii) such further details and information as the Contracting Authority may reasonably require.

11.2The SCC shall specify the time limit within which the programme of performance must be submitted to the Contracting Authority for approval and the deadline for the Contracting Authority’s approval. The approval of the programme by the Contracting Authority shall not relieve the Supplier of any of his obligations under the contract.

11.3 If the Contracting Authority fails to notify his decision of approval referred to in Article 11.2 within the deadlines referred to in the contract such programme of performance shall be deemed to be approved on expiry of the deadlines. If no deadline is specified, they shall be deemed to be approved 30 days after receipt.

11.4No material alteration to the programme shall be made without the approval of the Contracting Authority. If, however, the progress of the performance of the contract does not conform to the programme, the Contracting Authority may instruct the Supplier to revise the programme and submit the revised programme to him for approval.

11.5 Before provisional acceptance of the supplies, the Supplier shall supply operation and maintenance manuals together with drawings, which shall be in such detail that will enable the Contracting Authority to operate, maintain, adjust and repair all parts of the supplies. Unless otherwise stated in the SCC, the manuals and drawings shall be in the language of the contract and in such forms and numbers as stated in the contract. The supplies shall not be considered completed for the purpose of provisional acceptance until such manuals and drawings have been supplied to the Contracting Authority

**Article 12 Tax and customs arrangements**

12.1 Subject to any other provisions stipulated in the SCC, the Supplier shall be entirely responsible for the payment of all taxes, stamp duties, license fees, customs charges and other such levies incurred or imposed until delivery of the contracted Goods to the place of delivery, as specified by the Contracting Authority.

#### Article 13 Patents and licences

13.1 Unless otherwise specified in the SCC, the Supplier shall indemnify the Contracting Authority against any claim resulting from the use as specified in the contract of patents, licences, drawings, models, or brand or trademarks, unless such infringement results from compliance with the design or specification provided by the Contracting Authority.

**Article 14 Period of execution of tasks**

14.1 The period of execution of tasks shall commence be as stated in the contract Article 2, without prejudice to extensions of the period which may be granted under Article 15.

14.2 Save where the Parties agree otherwise, performance of the contract shall begin no later than 90 days after notification of award of contract. After that date the Supplier shall be entitled not to perform the contract and to obtain its termination or compensation for the damage he has suffered. The Supplier shall forfeit this right unless he exercises it within 30 days of the expiry of the 90 day period.

14.3 If provision is made for separate periods of performance for separate lots, such periods shall not be aggregated in cases where one Supplier is allocated more than one lot.

**Article 15 Extension of period of execution**

15.1 The Supplier may request an extension to the period of execution if his performance of the contract is delayed, or expected to be delayed, for any of the following reasons:

a) extra or additional supplies ordered by the Contracting Authority;

b) exceptional weather conditions in the country of the Contracting Authority which may affect installation of the supplies;

c) physical obstructions or conditions which may affect delivery of the supplies, which could not reasonably have been foreseen by a competent supplier;

d) administrative orders affecting the date of completion other than those arising from the Supplier's default;

e) failure of the Contracting Authority to fulfil its obligations under the contract;

f) any suspension of the delivery and/or installation of the supplies which is not due to the Supplier's default;

g) force majeure;

h) any other causes referred to in these General Conditions which are not due to the Supplier's default.

15.2 Within 15 days of realising that a delay might occur, the Supplier shall notify the Contracting Authority of his intention to make a request for extension of the period of performance to which he considers himself entitled and, save where otherwise agreed between the Supplier and the Contracting Authority, within 30 days provide the Contracting Authority with comprehensive details so that the request can be examined.

15.3 Within 30 days, by written notice to the Supplier, the Contracting Authority shall grant such extension of the period of performance as may be justified, either prospectively or retrospectively, or inform the Supplier that he is not entitled to an extension.

#### Article 16 Delays in execution

16.1 If the Supplier fails under his own responsibility to deliver any or all of the goods or perform the services within the time limit(s) specified in the contract, the Contracting Authority shall, without formal notice and without prejudice to its other remedies under the contract, be entitled, for every day which shall elapse between the expiry of the contractual period and the actual date of completion, to liquidated damages equal to 0,25% in days of the value of the undelivered supplies to a maximum of 10% of the total value of the contract.

16.2 If the non-delivery of any of the goods prevents the normal use of the supplies as a whole, the liquidated damages provided for in paragraph 16.1 shall be calculated on the basis of the total contract value.

16.3 If the Contracting Authority has become entitled to claim at least 10% of the contract value it may, after giving written notice to the Supplier:

**-** seize the performance guarantee;

- terminate the contract, in which case the Supplier will have no right to compensation; and

- enter into a contract with a third party for the provision of the balance of the supplies. The Supplier shall not be paid for this part of the contract. The Supplier shall also be liable for the additional costs and damages caused by his failure.

**Article 17 Suspension**

17.1 The Contracting Authority may, by administrative order, at any time, instruct the Supplier to suspend:

1. The manufacture of the supplies;
2. the delivery of the supplies to the place of acceptance at the time specified for delivery in the performance program or, if no time specified, at the time appropriate for it to be delivered; or
3. the installation of the supplies which have been delivered to the place of acceptance.

17.2 The Supplier shall, during suspension, protect and secure the supplies stored at the Supplier’s warehouse or elsewhere, against any deterioration, loss or damage to the extent possible and as instructed by the Contracting Authority, even if supplies have been delivered to the place of acceptance in accordance with the contract but their installation has been suspended by the Contracting Authority.

17.3 Additional expenses incurred in connection with such protective measure shall be added to the contract price. The Supplier shall not be paid any additional expenses if the suspension is:

a) dealt with differently in the contract; or

b) necessary by reason of normal climatic conditions at the place of acceptance;

c) necessary owing to some default of the Supplier; or

d) necessary for the safety or the proper execution of the contract or any part thereof insofar as such necessity does not arise from any act or default by the Contracting Authority.

17.4 The Supplier shall not be entitled to such additions to the contract price unless he notifies the Contracting Authority, within 30 days of receiving the order to suspend progress of delivery, of his intention to make a claim for them.

17.5 The contracting authority, after consultation with the Supplier, shall determine such extra payment and/or extension of the period of performance to be made to the Supplier in respect of such claim as shall, in the opinion of the Contracting Authority.

17.6 If the period of suspension exceeds 180 days, and the suspension is not due to the Supplier’s default, the Supplier may, by notice to the Contracting Authority, request to proceed with the supplies within 30 days, or terminate the contract.

17.7 Where the award procedure or performance of the contract is vitiated by substantial errors or irregularities or by fraud, the Contracting Authority shall suspend performance of the contract. Where such errors, irregularities or fraud are attributable to the Supplier, the Contracting Authority may also refuse to make payments or may recover amounts already paid, in proportion to the seriousness of the errors, irregularities or fraud.

17.8 The purpose of suspending the contract shall be to verify whether presumed substantial errors and irregularities or fraud have actually occurred. If they are not confirmed, performance of the contract shall resume as soon as possible. A substantial error or irregularity shall be any infringement of a contract or regulatory provision resulting from an act or an omission that causes or might cause a loss to the budget of Contracting Authority.

#### Article 18Quality of supplies

18.1 The supplies must in all respects satisfy the technical specifications laid down in the contract and conform in all respects to the drawings, surveys, models, samples, patterns and other requirements in the contract, which must be held at the disposal of the Contracting Authority for the purposes of identification throughout the period of performance

18.2 Any preliminary technical acceptance stipulated in the SCC should be the subject of a request sent by the Supplier to the Contracting Authority. The request shall specify the materials, items and samples submitted for such acceptance according to the contract and indicate the lot number and the place where acceptance is to take place, as appropriate. The materials, items and samples specified in the request must be certified by the Contracting Authority as meeting the requirements for such acceptance prior to their incorporation in the supplies.

18.3 Even if materials or items to be incorporated in the supplies or in the manufacture of components to be supplied have been technically accepted in this way, they may still be rejected if a further examination reveals defects or faults, in which case they must immediately be replaced by the Supplier. The Supplier may be given the opportunity to repair and make good materials and items which have been rejected, but such materials and items will be accepted for incorporation in the supplies only if they have been repaired and made good to the satisfaction of the Contracting Authority.

**Article 19 Inspection and testing**

19.1The Supplier shall ensure that the supplies are delivered to the place of acceptance in time to allow the Contracting Authority to proceed with acceptance of the supplies. The Supplier is deemed to have fully appreciated the difficulties which he might encounter in this respect, and he shall not be permitted to advance any grounds for delay.

19.2 The Contracting Authority shall be entitled, from time to time, to inspect, examine measure and test the components, materials and workmanship, and check the progress of preparation, fabrication or manufacture of anything being prepared, fabricated or manufactured for delivery under the contract, in order to establish whether the components, materials and workmanship are of the requested quality and quantity. This shall take place at the place of manufacture, fabrication, preparation or at the place of acceptance or at such other places as may be specified in the SCC.

19.3 For the purposes of such tests and inspections, the Supplier shall:

a) provide the Contracting Authority, temporarily and free of charge, with such assistance, test samples or parts, machines, equipment, tools, labour, materials, drawings and production data as are normally required for inspection and testing;

b) agree, with the Contracting Authority, the time and place for tests;

c) give the Contracting Authority access at all reasonable times to the place where the tests are to be carried out.

19.4 If the representative of the Contracting Authority is not present on the date agreed for tests, the Supplier may, unless otherwise instructed by the Contracting Authority, proceed with the tests, which shall be deemed to have been made in the Contracting Authority’s presence. The Supplier shall immediately send duly certified copies of the test results to the Contracting Authority, who shall, if he has not attended the test, be bound by the test results.

19.5 When components and materials have passed the above-mentioned tests, the Contracting Authority shall notify the Supplier or endorse the Supplier's certificate to that effect.

19.6 If the Contracting Authority and the Supplier disagree on the test results, each shall state his views to the other within 15 days of such disagreement. The Contracting Authority or the Supplier may require such tests to be repeated on the same terms and conditions or, if either Party so requests, by an expert selected by common consent. All test reports shall be submitted to the Contracting Authority, who shall communicate the results of these tests without delay to the Supplier. The results of retesting shall be conclusive. The cost of retesting shall be borne by the Party whose views are proved wrong by the retesting.

19.7 In the performance of their duties, the Contracting Authority and any person authorised by him shall not disclose to unauthorised persons information concerning the undertaking's methods of manufacture and operation obtained through inspection and testing.

**Article 20 General principles of payment**

20.1 Payments shall be made in Euro. The method and conditions of payment to be made to the Supplier under this Contract shall be specified in the SCC.

20.2 Payments due according to an invoice issued by the supplier shall be made to the bank account mentioned on Section V, **Financial Identification,** of this contract, completed by the Supplier. The same form, annexed to the payment request, must be used to report changes of bank account.

20.3 Sums due shall be paid within no more than 30 days from the date on which an admissible payment request is registered by the competent department. The date of payment shall be the date on which the institution's account is debited. The payment request shall not be admissible if one or more essential requirements are not met.

20.4 The 30-day period may be suspended by notifying the Supplier that the payment request cannot be fulfilled because the sum is not due, provided or because there is evidence that the expenditure might not be eligible. In the latter case, an inspection may be carried out on the spot for the purpose of further checks. The Supplier shall provide clarifications, modifications or further information within 15 days of being asked to do so. The payment period shall continue to run from the date on which a properly drawn-up payment request is registered.

20.5 Once the deadline laid down in Article 20.3 has expired, the Supplier may, within two months of late payment, claim late-payment interest at the rediscount rate applied by the issuing institution of Kosovo on the first day of the month in which the deadline expired, plus seven percentage points. The late-payment interest shall apply to the time which elapses between the date of the payment deadline (exclusive) and the date on which the Contracting Authority's account is debited (inclusive).

20.6 Any default in payment of more than 90 days from the expiry of the period laid down in Article 20.3 shall entitle the Supplier either not to perform the contract or to terminate it, with 30 days' prior notice to the Contracting Authority.

#### Article 21Delivery

21.1 The Supplier shall deliver the supplies in accordance with the conditions of the contract. The supplies shall be at the risk of the Supplier until their provisional acceptance.

21.2 The Supplier shall provide such packaging of supplies as is required to prevent their damage or deterioration in transit to their destination as indicated in the contract. The packaging shall be sufficient to withstand, without limitation, rough handling, and exposure to extreme temperatures, salt and precipitation during transit and open storage. Package size and weight shall take into consideration, where appropriate, the remoteness of the final destination of the supplies and the possible absence of heavy handling facilities at all points in transit.

21.3 The packaging, marking and documentation inside and outside the packages shall comply with such requirements as shall be expressly provided for in the SCC, subject to any variations subsequently ordered by the Contracting Authority.

21.4 No supplies shall be shipped or delivered to the place of acceptance until the Supplier has received a delivery order from the Contracting Authority. The Supplier shall be responsible for the delivery at the place of acceptance of all supplies and supplier's equipment required for the purpose of the contract.

21.5Delivery shall be deemed to have been made when there is written evidence available to both Parties that delivery of the supplies has taken place in accordance with the terms of the contract.

**Article 22 Verification operations**

22.1The supplies shall not be accepted until the prescribed verifications and tests have been carried out at the expense of the Supplier. The inspections and tests may be conducted before shipment, at the point of delivery and/or at the final destination of the goods.

22.2 The Contracting Authority shall, during the progress of the delivery of the supplies and before the supplies are taken over, have the power to order or decide:

a) the removal from the place of acceptance, within such time or times as may be specified in the order, of any supplies which, in the opinion of the Contracting Authority, are not in accordance with the contract;

b) their replacement with proper and suitable supplies;

c) the removal and proper re-installation, notwithstanding any previous test thereof or interim payment thereof, of any installation which in respect of materials, workmanship or design for which the Supplier is responsible, is not, in the opinion of the Contracting Authority, in accordance with the contract;

d) that any work done or goods supplied or materials used by the Supplier is or are not in accordance with the contract, or that the supplies or any portion thereof do not fulfil the requirements of the contract.

22.3 The Supplier shall, with all speed and at his own expense, make good the defects so specified. If the Supplier does not comply with such order, the Contracting Authority shall be entitled to employ other persons to carry out the orders and all expenses consequent thereon or incidental thereto shall be deducted by the Contracting Authority from any monies due or which may become due to the Supplier.

22.4 Supplies which are not of the required quality shall be rejected. A special mark may be applied to the rejected supplies. This shall not be such as to alter them or affect their commercial value. Rejected supplies shall be removed by the Supplier from the place of acceptance, if the Contracting Authority so requires, within a period which the Contracting Authority shall specify, failing which they shall be removed as of right at the expense and risk of the Supplier. Any works incorporating rejected materials shall be rejected.

**Article 23 Provisional acceptance**

23.1 The supplies shall be taken over by the Contracting Authority when they have been delivered in accordance with the contract, have satisfactorily passed the required tests, or have been commissioned as the case may be, and a certificate of provisional acceptance has been issued or is deemed to have been issued

23.2 The Supplier may apply, by notice to the Contracting Authority, for a certificate of provisional acceptance when supplies are ready for provisional acceptance. The Contracting Authority shall within 30 days of receipt of the Supplier's application either:

-issue the certificate of provisional acceptance to the Supplier with a copy to the Contracting Authority stating, where appropriate, his reservations, and, inter alia, the date on which, in his opinion, the supplies were completed in accordance with the contract and ready for provisional acceptance; or

-reject the application, giving his reasons and specifying the action which, in his opinion, is required of the Supplier for the certificate to be issued.

23.3 Should exceptional circumstances make it impossible to proceed with the acceptance of the supplies during the period fixed for provisional or final acceptance, a statement certifying such impossibility shall be drawn up by the Contracting Authority after consultation with the Supplier. The certificate of acceptance or rejection shall be drawn up within 30 days following the date on which such impossibility ceases to exist. The Supplier shall not invoke these circumstances in order to avoid the obligation of presenting the supplies in a state suitable for acceptance.

23.4 If the Contracting Authority fails either to issue the certificate of provisional acceptance or to reject the supplies within the period of 30 days, he shall be deemed to have issued the certificate on the last day of that period, except where the certificate of provisional acceptance is deemed to constitute a certificate of final acceptance. If the supplies are divided by the contract into lots, the Supplier shall be entitled to apply for a separate certificate for each lot.

23.5 In case of partial delivery, the Contracting Authority reserves the right to give partial provisional acceptance.

23.6 Upon provisional acceptance of the supplies, the Supplier shall dismantle and remove temporary structures and materials no longer required for use in connection with the performance of the contract. He shall also remove any litter or obstruction and redress any change in the condition of the place of acceptance as required by the contract.

**Article 24 Warranty obligations**

24.1 The Supplier shall warrant that the supplies are new, unused, of the most recent models and incorporate all recent improvements in design and materials, unless otherwise provided in the contract. The Supplier shall further warrant that all supplies shall have no defect arising from design, materials or workmanship. This warranty shall remain valid as specified in SCC.

24.2 The Supplier shall be responsible for making good any defect in or damage to, any part of the supplies which may appear or occur during the warranty period and which:

a) results from the use of defective materials, faulty workmanship or design of the Supplier; or

b) results from any act or omission of the Supplier during the warranty period; or

c) appears in the course of an inspection made by, or on behalf of, the Contracting Authority.

24.3The Supplier shall at his own cost make good the defect or damage as soon as practicable. The warranty period for all items replaced or repaired shall recommence from the date on which the replacement or repair was made to the satisfaction of the Contracting Authority. The warranty period shall be extended only for the part of the supplies affected by the replacement or repair.

24.4 If any such defect appears or such damage occurs during the warranty period, the Contracting Authority shall notify the Supplier. If the Supplier fails to remedy a defect or damage within the time limit stipulated in the notification, the Contracting Authority may:

a) remedy the defect or the damage itself, or employ someone else to carry out the work at the Supplier's risk and costs, in which case the costs incurred by the Contracting Authority shall be deducted from amounts due or guarantees held against the Supplier or from both;

b) in case no amounts are due or no guarantee is effective claim the amount due from the Supplier; or

c)terminate the contract.

24.5 The maintenance obligations shall be stipulated in the SCC and technical specifications. If the duration of the warranty period is not specified, it shall be 365 days. The warranty period shall commence on the date of provisional acceptance.

**Article 25 After-sales service**

25.1 An after-sales service, if required by the contract, shall be provided in accordance with the details stipulated in the SCC. The Supplier shall undertake to carry out or have carried out the maintenance and repair of supplies and to provide a rapid supply of spare parts. The SCC may specify that the Supplier must provide any or all of the following materials, notifications and documents pertaining to spare parts manufactured or distributed by the Supplier:

a) such spare parts as the Contracting Authority may choose to purchase from the Supplier, it being understood that this choice shall not release the Supplier from any warranty obligations under the contract

b) in the event of termination of production of the spare parts, advance notification to the Contracting Authority to allow it to procure the parts required and, following such termination, provision at no cost to the Contracting Authority of the blueprints, drawings and specifications of the spare parts, if and when requested.

**Article 26 Final acceptance**

26.1 Upon expiry of the warranty period or, where there is more than one such period, upon expiry of the latest period, and when all defects or damage have been rectified, the Contracting Authority shall issue the Supplier a final acceptance certificate, with a copy to the Contracting Authority, stating the date on which the Supplier completed his obligations under the contract to the Contracting Authority’s satisfaction. The final acceptance certificate shall be issued by the Contracting Authority within 30 days of the expiry of the warranty period or as soon as any repairs ordered under Article 24 have been completed to the satisfaction of the contracting authority.

26.2 The contract shall not be considered to have been performed in full until the final acceptance certificate has been signed or is deemed to have been signed by the contracting authority.

26.3 Notwithstanding the issue of the final acceptance certificate, the Supplier and the Contracting Authority shall remain liable for the fulfilment of any obligation incurred under the contract prior to the issue of the final acceptance certificate which remains unperformed at the time that final acceptance certificate is issued. The nature and extent of any such obligation shall be determined by reference to the provisions of the contract.

**Article 27 Breach of contract**

27.1 A Party shall be in a breach of contract if it fails to discharge any of its obligations under the contract.

27.2 Where a breach of contract occurs, the injured Party shall be entitled to the following remedies:

a) damages; and/or

b) termination of the contract.

27.3 In addition to the above-mentioned measures, damages may be awarded. They may be either:

a) general damages; or

b) liquidated damages.

27.4 Recovery of damages, disbursements or expenses resulting from the application of measures provided for in this Article shall be affected by deduction from the sums due to the Supplier, from the deposit, or by payment under the guarantee.

**Article 28 Termination of the Contract by the Contracting Authority**

28.1 The Contracting Authority may, after giving the Supplier 14 days' notice, terminate the contract in any of the following cases:

a) the Supplier substantially fails to perform his obligations under this contract;

b) the Supplier fails to comply within a reasonable time with a notice given by the Contracting Authority requiring him to make good any neglect or failure to perform his obligations under the contract which seriously affects the proper and timely performance of the works;

c) the Supplier refuses or neglects to carry out administrative orders given by the Contracting Authority;

d) the Supplier assigns the contract or subcontracts without the authorisation of the Contracting Authority;

e) the Supplier go into bankruptcy or is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

f) the Supplier has been convicted of an offence concerning professional conduct by a judgment which has the force of res judicata;

g) the Supplier has been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify;

h) the Supplier has been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;

i) the Supplier, following another procurement procedure or grant award procedure financed by the Community budget, has been declared to be in serious breach of contract for failure to perform its contractual obligations;

j) any organisational modification occurs involving a change in the legal personality, nature or control of the Supplier, unless such modification is recorded in an addendum to the contract;

k) any other legal disability hindering performance of the contract occurs;

l) the Supplier fails to provide the required guarantee or insurance, or if the person providing the earlier guarantee or insurance required under the present contract is not able to abide by his commitments.

28.2 Termination shall be without prejudice to any other rights or powers of the Contracting Authority and the Supplier under the contract. The Contracting Authority may, thereafter, conclude any other contract with a third party on behalf of the Supplier. The Supplier's liability for delay in completion shall immediately cease upon termination without prejudice to any liability there under that may already have occurred.

28.3 The Contracting Authority shall, upon the issue of the notice of termination of the contract, instruct the Supplier to take immediate steps to bring the execution of the supplies to a close in a prompt and orderly manner and to reduce expenditure to a minimum.

28.4 In the event of termination, the Contracting Authority shall, as soon as possible and in the presence of the Supplier or his representatives or having duly summoned them, draw up a report on the supplies delivered and the work performed and take an inventory of the materials supplied and unused. A statement shall also be drawn up of monies due to the Supplier and of monies owed by the Supplier to the Contracting Authority as at the date of termination of the contract.

28.5 The Contracting Authority shall not be obliged to make any further payments to the Supplier until the supplies are completed, whereupon the Contracting Authority shall be entitled to recover from the Supplier the extra costs, if any, of providing the supplies or shall pay any balance due to the Supplier prior to the termination of the contract..

28.6 If the Contracting Authority terminates the contract it shall be entitled to recover from the Supplier any loss it has suffered under the contractual conditions set out in Article 2 of SCC.

**Article 29 Termination by the Supplier**

29.1 The Supplier may, after giving 14 days notice to the Contracting Authority, terminate the contract if the Contracting Authority:

**-** fails to pay the Supplier the amounts due under any certificate issued by the authorised person after the expiry of the deadline stated.

**-** Consistently fails to meet its obligations after repeated reminders; or

- suspends the delivery of the supplies, or any part thereof, for more than 180 days, for reasons not specified in the contract or not attributable to the Contractor

29.2 Termination shall be without prejudice to any other rights or powers under the contract of the Contracting Authority and the Supplier.

29.3 In the event of termination in accordance with (a) and (b) under section 29.1, the Contracting Authority shall pay to the Supplier for any loss or damage the Supplier may have suffered.

**Article 30 Force majeure**

30.1 Neither Party shall be considered to be in default or in breach of its obligations under the contract if the performance of such obligations is prevented by any event of force majeure arising after the date when the contract becomes effective.

30.2 For the purposes of this Article, the term "force majeure" means acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions and any other similar unforeseeable events which are beyond the Parties' control and cannot be overcome by due diligence.

30.3 Notwithstanding the provisions of Articles 16 and 28 , the Supplier shall not be liable to forfeiture of his performance guarantee, liquidated damages or termination for default if, and to the extent that, his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure. Nor, notwithstanding the provisions of Articles 20.5 and 29, shall the Contracting Authority be liable for the payment of interest on delayed payments, for non-performance or for termination by the Supplier for default if, and to the extent that, the Contracting Authority's delay or other failure to perform its obligations is the result of force majeure.

30.4 If either Party considers that any circumstances of force majeure have occurred which may affect performance of its obligations, it shall promptly notify the other Party, giving details of the nature, the probable duration and the likely effect of the circumstances. Unless otherwise directed by the contracting authority in writing, the Supplier shall continue to perform his obligations under the contract as far as is reasonably practicable, and shall employ every reasonable alternative means to perform any obligations that the event of force majeure does not prevent him from performing. The Supplier shall not employ such alternative means unless directed to do so by the Contracting Authority.

30.5 If the Supplier incurs additional costs in complying with the Contracting Authority directions or using alternative means under Article 30.4, the amount thereof shall be certified by the Contracting Authority.

**Article 31 Amicable dispute settlement**

31.1 The Parties shall make every effort to settle amicably any dispute which may arise between them. Once a dispute has arisen, the Parties shall notify each other in writing of their positions on the dispute and any solution which they consider possible. If either Party deems it useful, the Parties shall meet and try and settle the dispute. A Party shall respond to a request for amicable settlement within 15 days of such a request. The maximum period laid down for reaching such a settlement shall be 30 days from the commencement of the procedure. Should the attempt to reach an amicable settlement fail or a Party fail to respond in time to requests for a settlement, either Party shall be free to proceed to the next stage of the dispute-settlement procedure by notifying the other.

31.2 If the amicable dispute-settlement procedure fails, the Parties may agree to try conciliation through the institution specified in SCC. If no settlement is reached within 30 days of the start of the conciliation procedure, each Party shall be entitled to move on to the next state of the dispute-settlement procedure.

**Article 32 Dispute settlement by litigation**

32.1 If no settlement is reached within 30 days of the start of the amicable dispute-settlement procedure, each Party may seek:

a) either a ruling from a court; or

b) where the parties agree, an arbitration ruling in accordance with the SCC.

32.2 Dispute settlement model i.e. courts or arbitration shall be decided by the parties before contract signature

# CONTRACT SECTION III SPECIAL CONDITIONS

The following SCC shall supplement and / or amend the GCC. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC*.*

*[Instructions for completing the SCC are provided, as needed, in the notes in italics mentioned for the relevant* GCC *Articles. Delete none relevant ones]*

|  |  |  |
| --- | --- | --- |
| General Conditions of Contract | | Amendment/Modification of relevant Article in the GCC |
| Article  description | Art. No. |  |
| Law applicable and language | 2.1 | Kosovo Laws that are in power shall apply in all matters not covered by the provisions of the contract. The jurisdiction shall be the relevant court in Prishtina. |
|  | 2.2 | The language used shall be [*insert language of the procedure*]. |
| Performance guarantee | 9.1 | *[Specify the amount of the performance guarantee and the part in respect of after-sales service*] |
| Insurance | 10.1 | [*Specify any specific insurance requirements]* |
| Performance programme | 11 | *[Specify if the performance programme is required, with dates and deadlines, and requirements relating to any manuals]* |
| Taxes and customs arrangements | 12.1 | *[ insert the delivery terms]* |
| Patents and licences | 13.1 | [*Specify whether there is derogation from Article 13 of the GCC]* |
| Quality of supplies | 18.2 | *[indicate here if a preliminary technical acceptance is required]* |
| Inspection and testing | 19.2 | *[Specify the place where the goods will be inspected]* |
| Payment | 20.1 | Payments shall be made  *[Specify the administrative/technical conditions governing payments and the method of payments]* |
| Delivery | 21.3 | *[Specify any specific packaging requirements]* |
| Warranty obligations | 24.1 | *[insert warranty period* |
|  | 24.5 | *[Specify any additional obligations under the warranty]* |
| After sale services | 25.1 | *[Give details of any after-sales service that the Supplier must provide and specify the proportion of the performance guarantee assigned to that activity]* |
| Amicable dispute settlement | 31.2 | *[Specify the Commission department responsible for conciliation]* |
| Dispute settlement by litigation | 32.1 | *[Insert both]*  a) Any dispute between the Parties that may arise during the performance of this contract and that it has not been possible to settle otherwise between the Parties shall be submitted to *[specify competent court]* in accordance with the Kosovo law.  or  b) where the parties expressly agree, any dispute between the Parties that may arise during the performance of this contract and that it has not been possible to settle otherwise between the Parties shall be submitted to the arbitration of [specify dispute-settlement body] in accordance with [*specify arbitration rules (rules of International Chamber of Commerce, United Nations Commission on International Trade Law, or other internationally recognised arbitration procedure)].* |

# CONTRACT SECTION IV: MODEL PERFORMANCE GUARANTEE

*[On the headed notepaper of the financial institution providing the guarantee]*

**To: [name of contracting authority**]

(Hereinafter “the Contracting Authority”).

**On behalf of: [name and address of economic operator]**

(Hereinafter “economic operator”)

**Title of the procurement activity:**

**Procurement Number:**

**On First Demand Guarantee**

WHEREAS the economic operator has undertaken to post a performance security referring to Tender Dossier, with the abovementioned procurement number dispatched by the Contracting Authority;

AND WHEREAS the Economic Operator wants to post a guarantee for the sum specified in the tender dossier;

AND WHEREAS we have agreed to give the Economic Operator such a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Economic Operator, up to a total of <amount of the guarantee in words and figures>, and we undertake to pay you, upon your first written demand declaring the Economic Operator to be in default because:

1. The contracting authority based on the objectively verified evidences stated that economic operator has failed to complete its obligations under the contract and this has caused to the contracting authority substantial loss and/or substantial expenses in obtaining the completion of such contract; and
2. The Economic Operator has failed to perform signed contract, which leaves unpaid many workers, subcontractors, and/or material suppliers.

Payment in the limited sum of <amount of guarantee> as aforesaid shall be made without disagreement or complaint, as soon as possible after the registration of your demand with the confirmation of “acceptance”.

**This guarantee is valid until <date and time>**

Signature and seal of the Guarantors

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of financial institution

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

# CONTRACT SECTION V: FINANCIAL IDENTIFICATION

|  |  |
| --- | --- |
| **ACCOUNT HOLDER** | |
| **Name** |  |
| **Address** |  |
| **City** |  |
| **Post Code** |  |
| **Contact** |  |
| **Telephone** |  |
| **Fax** |  |
| **E-mail** |  |
| **VAT number** |  |

|  |  |
| --- | --- |
| **BANK** | |
| **Name** |  |
| **Address** |  |
| **City** |  |
| **Post Code** |  |
| **Country** |  |
| **Bank Account** |  |
| **IBAN (optional)** |  |
| **BIC (Optional)** |  |

**REMARKS:**

|  |  |  |
| --- | --- | --- |
| **BNK STAMP + SIGNATURE of BANK REPRESENTATIVE (Both obligatory)** |  | **DATE + SIGNATURE of ACCOUNT HOLDER: (Obligatory))** |

# *PART C: TENDER SUBMISSION FORM*

# Section I. TENDER Form

**To:** [***insert name and address of Contracting Authority****]*

(hereinafter “the Contracting Authority”)

Title of contract: [*insert Title]*

In response to your letter of invitation to tender for the above contract, we, the undersigned, hereby declare that:

**1.** We have examined and accept in full the content of the tender dossier No [*insert procurement number]*. We hereby accept its provisions in their entirety, without reservation or restriction.

**2.** We offer to deliver, in accordance with the terms of the tender dossier and the conditions and time limits laid down, without reserve or restriction:

*[If the object of contract is not divided in lots]*

[*insert the description of the supplies]*

*[If the object of the contract is divided in lots][[16]](#footnote-16):*

Lot no *[insert Lot number]:* [*insert the description of the supplies*]

Lot no *[insert Lot number]:* [*insert the description of the supplies]*…

**3.** Total tender price is:

*[If the object of contract is not divided in lots]*

**Tender price in figures**: [*insert tender price in figures* ***€****]*

**And in words** [*insert tender price in words* ***Euro****]*

*[If the object of the contract is divided in lots][[17]](#footnote-17):*

Lot no [*[insert Lot number]:* *[insert the tender price per lot, in figures and in words]*

Lot no [*[insert Lot number]:* *[insert the l tender price per lot, in figures and in words.] …*

**4.** This tender is valid for a period of *[insert number of days*] from the final date for submission of tenders.

**5.** [If our tender is accepted, we undertake to provide, as required, a performance guarantee prior to the signing of the contract of [*insert amount or percentage of guarantee*].

**6.** Economic Operator [*and our subcontractors*] has/have the following nationality: **[***insert nationality*]

**7.**  We are making this application, for this tender [*insert Lot number, if applicable*], in our own right led by ourselves. We confirm that we are not tendering for the same contract in any other form

[*In case of a consortium]*

[We are making this application, for this tender [*insert Lot number,* *if applicable*] **as partner in the consortium** led by [*insert name of the leader*]. We confirm that we are not tendering for the same contract in any other form. We confirm, as a partner in the consortium, that all partners are jointly and severally liable by law for the performance of the contract, that the lead partner is authorised to bind, and receive instructions for and on behalf of, each member, that the performance of the contract, including payments, is the responsibility of the lead partner, and that all partners in the joint venture/consortium are bound to remain in the joint venture/consortium for the entire period of the contract's performance].

**8.** We will inform the Contracting Authority immediately if there is any change in the above circumstances at any stage during the implementation of the contract. We also fully recognise and accept that any inaccurate or incomplete information deliberately provided in this application may result in our exclusion from this and other contracts funded by the KCB.

**9.** We note that the Contracting Authority is not bound to proceed with this invitation to tender and that it reserves the right to award only part of the contract and that it will incur no liability towards us should it do so.

**SUBMITTED BY**

|  |  |
| --- | --- |
| **Economic Operator Identification** | |
| **Company Name[[18]](#footnote-18)** |  |
| **Full Address** |  |
| **Represented by:** | |
| **Name & Surname** |  |
| **Position** |  |
| **Signature** |  |
| **Date** |  |
| **Stamp** |  |

**[In case of Group of Economic Operators:]**

|  |  |  |
| --- | --- | --- |
|  | **Name(s)** | **Address-residency** |
| **Leader 1\*** |  |  |
| **Etc … \*** |  |  |

\* add/delete additional lines for partners as appropriate. *Note that a subcontractor is not considered to be a partner for the purposes of this tender procedure*.

**Name and surname name of the person duly authorised to sign the tender on behalf of the Consortium: [insert name and surname]**

**Signature: [signature of the authorised person]**

**Place and date: [insert place and date]**

**Stamp of the Leader: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

# Section II. PRICE SCHEDULE

|  |
| --- |
| **LOT[No.]** |
| **Item no.** | **Description** | | **unit** | **qty** | **unit price without vat- €** | **vat (%)** | | **unit price with vat- €** | Total price with VAT € | | **Country of origin** |
| **1** |  | |  |  |  |  | |  |  | |  |
| **2** |  | |  |  |  |  | |  |  | |  |
| **etc.** |  | |  |  |  |  | |  |  | |  |
| **3** |  | [Training] | | | [lump sum] | |  | | |
| **4** |  | [other services] | | | [lump sum] | |  | | |
| **overall total:** | | | | | | |  | | |
| **5** |  | [spare parts] | | | [total cost] |  | |
|  | [consumables] | | | [total cost] |  | |

*[Total cost of spare parts and/or of the consumable articles, should not be included in the overall total]*

*[Add or remove as much as necessary]*

|  |  |
| --- | --- |
| **economic operator identification (eo)** | |
| **Name of EO:** |  |
| **name and first name of the representative of EO:** |  |
| **signature:** |  |
| **date:** |  |
| **Stamp:** |  |

1. To be reported on any document or request concerning this procurement activity. [↑](#footnote-ref-1)
2. Incoterms 2010 International Chamber of Commerce [↑](#footnote-ref-2)
3. Non applicable, where the criteria for contract award is specified as “the lowest price responsive tender” [↑](#footnote-ref-3)
4. Weights assigned to each criterion (in % - the total of all weights shall be equal to 100) [↑](#footnote-ref-4)
5. where P= Score for the tender, Ps= Lowest Price, Pt = tender price. [↑](#footnote-ref-5)
6. where O= Score for the tender, Os= Best Operating Cost, Ot = tender operating cost [↑](#footnote-ref-6)
7. If several characteristics are considered, describe weight and set evaluation method for each one. [↑](#footnote-ref-7)
8. where C= Score for the tender, Cs= Best characteristic score, Ct = tender characteristic score [↑](#footnote-ref-8)
9. It could be the number of sales-service points in the specified region, or the number of agents, or the number of technicians, etc… [↑](#footnote-ref-9)
10. where S = Score for the tender, Ss= Best TA marks, St = tender TA marks [↑](#footnote-ref-10)
11. If several characteristics are considered, describe weight and set evaluation method for each one. [↑](#footnote-ref-11)
12. where Q= Score for the tender, Qs= Best quality score, Qt = tender quality score [↑](#footnote-ref-12)
13. Before signing the Contract “this Draft Contract” should be modified by the Contracting Authority according to the conditions of the procurement activity [↑](#footnote-ref-13)
14. Incoterms 2010 International Chamber of Commerce [↑](#footnote-ref-14)
15. The language shall be the language used by the tenderers in this tender. [↑](#footnote-ref-15)
16. Not applicable if object of the contract is not divided in lot(s). [↑](#footnote-ref-16)
17. Not applicable if object of the contract is not divided in lot(s). [↑](#footnote-ref-17)
18. In case of Group of EO insert the name of the leader [↑](#footnote-ref-18)